IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.881 OF 2004

Mr.C.G.Gavnekar for the Petitioner.

Mr.Sandesh Patil for the Respondent No.1.

Mr.M.H. Solkar, AGP for the State.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 4TH MAY,2005

P.C.:

1. By this petition the Petitioner challenges the order passed by the Additional Commissioner, Konkan Division holding that the appeal filed by the Petitioner/village panchayat was not maintainable.

2. The controversy is that the Collector on an application made by the Respondent No.1 granted him permission to use the land for non-agricultural purpose. That

permission was stayed by the Collector because the Tahsildar submitted a report to the Collector that the person in whose favour permission was granted was violating the conditions subject to which that permission was granted. Subsequently, the Respondent No.1 produced material including affidavit showing that he is abiding by the conditions subject to which the permission to use the land for non-agricultural purpose has been granted. Therefore, the Collector vacated that stay. The Petitioner filed an appeal against that order. The Addl.Commissioner, Konkan Division, held that the appeal is not maintainable because Section 152 does not provide for appeal against an order granting or rejecting the application for stay. It appears that really speaking the order of stay was not granted by the Collector on an application made by the Petitioner/village panchayat. It appears from that order that the order was made on a report submitted by the Tahsildar and that order was vacated by the Collector on being

satisfied that the conditions are complied with by the Respondent. Really speaking the Petitioner/village Panchayat does not play any role in so far as grant of permission for use of the land for non-agricultural purpose is concerned. The only relevant aspect on which the village panchyat could have some say as a planning authority is whether the land can be used for non-agricultural purpose under the regional development plan. It is nobody’s case that in the regional development plan the land is not capable of being used for non-agricultural purpose. If the land is capable of being used for non-agricultural purpose, then, the village panchayat will not enter the picture for any other purpose. If the village panchayat has any dispute with the Respondent No.1, the forum is else where and not the Collector who granted the permission for use of the land for non-agricultural purpose. Petition thus has no substance. It is rejected.

..